

**REMARKS/ARGUMENTS**

Claims 1-26 are in this application. Claims 3-6, 8-19 and 24-26 have been withdrawn as the result of an earlier election requirement. Claims 1 and 2 have been rejected to. The examiner has acknowledged that claims 7 and 20-23 are directed to allowable subject matter and would be allowable if rewritten in independent form.

**§ 112, Second Paragraph Rejections**

The Examiner has rejected claim 2 under § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

Specifically, the Examiner has stated that the limitation "each of said at least a first graphic form" is confusing, and that it is unclear of the applicant is claiming one or more than one graphic form. Claim 2 has now been amended removing the phrase "each of", which may have been the source of the confusion.

In view of this revised language, the Applicant respectfully submits that the claims are now free from the deficiencies identified by the Examiner under § 112, second paragraph.

**§ 102(b) Rejections**

The examiner has rejected claims 1 and 2 under 35 U.S.C. 102 (b) as being anticipated by Caperton, Jr. (US 3,660,903). The Examiner's assertion is respectfully traversed.

The Applicant respectfully points out that Caperton, Jr. discloses a drawing aid in which circular sights 33 are used in conjunction with reference points located on the object being drawn. That is, one set of reference points is indicated by sights

that are part of the apparatus and the other set of points is part of the object itself, which should not be considered as a graphic form. Caperton, Jr. clearly teaches (col. 4, lines 10-12) repositioning the drawing aid itself by moving the entire apparatus back and forth. Caperton, Jr. neither teaches nor suggests designating an additional set of points on the drawing aid in order to facilitate positioning of the eye of the user, nor would the apparatus of Caperton, Jr. suggest that such a modification would be possible.

This is in contrast to the teaching of the present invention, which clearly states throughout the specification, designating two set, or pairs, of points that are included in a graphic form, such as the semi-circles of Figure 22a. Further, the graphic forms are clearly integral parts of the apparatus of the present invention.

The Applicant further wishes to point out that, along with the structural difference discussed above, the method and apparatus of the present invention provides solutions for problems that are inherent in the device of Caperton, Jr.

Firstly, the precision of the alignment provided by the present invention in that all reference points are created for the specific task of alignment. Further, all reference points of the present invention are definite and recognizable. This is in contrast to the reference points on the object being drawn as used by Caperton, Jr. This would be especially true when drawing objects with smooth curves rather than well-defined corners. Further, in a case where the object has many "reference points" close together, the artist may forget which point was used for reference purposes.

Secondly, the present invention allows for manipulation of the object during the drawing process without loss of perspective and overall. A non-limiting example of this is drawing a scene with several similar objects by repositioning a single object within the scene, such as using one doll to draw more than one "person" in the picture.

When the reference points are located on the object, as in Caperton, Jr., movement of the object moves the reference points, thereby eliminating their functionality.

Thirdly, the key K of Caperton, Jr. is positioned so as to block a portion of the field of the artist's view, and may block areas the artist wishes to include in the drawing. This is not the case with the present invention which allows the artist to position the reference points outside of the scene being drawn. In some embodiments of the present invention, the artist may position the mechanism of the reference points substantially at the artist's discretion. This is clearly in contrast to the device of Caperton, Jr.

Finally, the key K of Caperton, Jr. is not suitable for use with an easel on which the drawing is directly made, such as the easel used with the present invention because, as the drawing is made, the view of the reference points located on the object may be obstructed. This is especially true if an opaque medium, such as, but not limited to, oil or acrylic paint, is used.

While continuing to traverse the Examiner's rejections, the Applicant has, in order to expedite the prosecution, chosen to amend claim 1 so as to emphasize the distinguishing features of the present invention over the cited prior art. Claim 1 now contains language that clearly states both of the two sets of reference points are included in an apparatus for designating reference points. Support for this amendment is found on page 10, line 10, and elsewhere in the specification.

Amended independent claim 1 now features language which makes it absolutely clear that the method of the present invention includes use of a first graphic form and a second graphic form each of which is included in an apparatus for designating reference points. The Applicant believes that the amendment of the claims completely overcomes the Examiner's rejections on § 102(b) grounds.

**Objections**

The Examiner has objected to claims 7 and 20-23 as being based on a rejected base claim. The Examiner has noted that these claims would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claim.

In view of the discussion above in the context of the § 102(b) rejections, the Applicant submits that the base claim from which these claims depend is allowable, making claims 7 and 20-23 allowable in their present form.

In view of the above amendments and remarks it is respectfully submitted that independent claim 1, and hence dependent claims 2, 7 and 20-23, are in condition for allowance. Further, the Applicant respectfully requests allowance of withdrawn claims 3-6, 8-19 and 24-26 which relate to non-elected species since they depend from a base claim now believed to be allowable. Therefore, the Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

DR. MARK FRIEDMAN, LTD

By \_\_\_\_\_  
Mark M. Friedman  
Attorney for Applicant  
Registration No. 33,883